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July 30, 1999

BY HAND

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Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Washington, D.C. 20554

RE: Comments of Amaturo Group, LTD.
MM Docket #99-25

Dear Ms. Salas:

Enclosed please find the original and 4 copies of Comments of Amaturo Group, LTD., for filing with the Commission in connection with the above-captioned matter.

If you should have any questions regarding this matter, kindly direct them to the undersigned.

Yours truly,

Bradford D. Carey

Bradford D. Carey

BDC/cb
Enclosures

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Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of:
Amendment of the Commission's Rules

to Create A Low Power FM Service MM Docket # 99-25

to: The Commission

COMMENTS OF AMATURO GROUP, LTD.

Amaturo Group of LA, Ltd.(Amaturo), by its undersigned Counsel, hereby states its Comments in response to the Notice of Proposed Rule Making in this proceeding.

First, Amaturo notes that it does not have, nor is it motivated to file these comments by, concerns that the additional competition from LPFM stations would substantially directly harm its business from competition. Rather, Amaturo's Comments are driven by its intimate knowledge of the working of broadcasting and an understanding of the laws of physics. Amaturo's principal, Mr. Joseph Amaturo, has been a Commission licensee for many decades. His competitive instincts and capabilities as a broadcaster have seen him survive the impact of Docket 80-90 and many other changes, including the change of FM station separations from mileage bands to a table of minimum separations. Simply stated, it's the technical interference that Amaturo stations may suffer that would substantially harm Amaturo and the public's ability to receive Amaturo's stations and FM stations in general.

Were the present ability of the public to receive FM stations without interference reduced, the public would be prejudiced against the entire band as the functionality of receivers diminishes, reception becomes more difficult, and the more popular choices of stations become less available. The listeners would be motivated to cease listening to those

individual stations that are subject to interference, but every negative effect on the band perceived by a listener is cumulative. When a technically superior form of entertainment and information delivery is available, the public has and will shift to the superior service; This axiom is the basis for the future of DTV, LMDS, and DAB, and has been born out with the shift from AM listening to FM and with the shift from over the air television reception to cable, wireless cable, and satellite.

If the commission were to allow a degradation of the FM band to the extent that any of several other audio broadcasting services become nearly as convenient, and of superior quality, the public will turn away from the FM broadcast service as a whole to listen to other media, no longer receiving the storm warnings and community and public service messages which broadcasters deliver so unselfishly.[1] Local radio will disappear. This abandonment of the FM band by listeners will result in the band no longer having the very listeners that LPFM supporters want to talk to and think want to hear them!

Destroying the ability of FM radio broadcasters to serve their service areas with dependability and pride would be a sad legacy for any Commission.

I. THE PROPOSED LPFM SERVICE WILL LEAD TO MASSIVE INTERFERENCE.

The Commission's table of allotments can be amended only on a showing that the proposed station would meet all of the Commission's minimum distance separation standards and otherwise further the public interest. The standards, first set decades ago, have only

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[1]Over $7 billion of community service announcements were delivered by broadcasters last year alone.

been changed on an evolutionary basis. And then, only after meticulous studies that clearly demonstrated that no adverse impacts would occur.

The proposals in the NPRM would, simply stated, turn an orderly, if not perfect, system into quagmire, where the public benefits sought – providing low power FM service would be widely lost to the same interference that it will bring to long-term licensees.

Lacking from the NPRM is information on technical studies that the Commission has undertaken, if it did any. While any abrupt change in the Commission's long-standing technical rules to create an LPFM service without substantial technical evidence that interference would not result would be *per se* arbitrary, capricious and unlawful, Amaturo submits that without detailed tests in the lab and field, changes can not be even considered.

The technical feasibility of authorizing a great number of smaller transmitting facilities is in doubt. Amaturo's experience indicates that the protection ratios now imposed will be inadequate in the proposed LPFM environment. The existing system of spacings is based on the distances to service and interfering contours and was meant to protect the public from interference when only a few stations in only a few directions need be considered.

In the proposed aggregate, several new transmitters will cause multiple interfering contours to overlap existing FM station service contours and apparently LPFM service contours as well, requiring additional protection for existing and new low power stations. The protections necessary to create a viable LPFM service while not causing harm to the existing FM service may greatly reduce or fully preclude the use of the spectrum thought available.

II. THE LPFM SERVICE WOULD WASTE SPECTRUM.

The Commission determined decades ago that stations operating on the FM broadcast band with low power (such as 10 watts) are wasteful of spectrum. The co-channel and second and third adjacent channel interference areas created are vastly disproportionate to the small service areas created. The Commission's own studies a few decades ago led it to require the then ten watt community stations (class D) to either upgrade to class A minimums or, generally, go off the air. The present LPFM proposal seeks to return just such stations to the air with one substantial difference – the licensees of the new stations might not be as motivated to comply with technical rules as were the colleges that were the typical 10 watt licensees previously. Absent conclusive studies that demonstrate that the propagation of radio waves or other technical matters have changed over the years, reversal of that policy now would be arbitrary, capricious and unlawful.[2] The Commission can not find based on what is now proposed that any low power service mixed with high power broadcasting in the FM band is going to really fit and work well.

III. LPFM MUST NOT BE ADOPTED BEFORE IBOC IS ESTABLISHED.

For many years, system designers, equipment manufacturers, broadcasters and broadcast associations have been working to develop the capability to transmit audio digitally over existing FM and AM broadcast stations while continuing to broadcast existing analog signals over the same channels.

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[2]Simply hiring a new engineer is not the answer.

The Commission is well aware of those efforts, and has been involved. Creation of a LPFM service now by permitting it to encroach on presently protected third adjacent channel spectrum quite likely would result in unuseable or unreliable IBOC signals from perfectly tuned transmitters and antennas. Even with very clean emissions, the LPFM stations are going to have a localized jamming effect on adjacent channel stations, IBOC or otherwise. Less than perfectly clean operation of LPFM transmitters, including over modulation, on the third adjacent most likely would, and on the second adjacent channel almost by mathematical equation will, create harmful interference.

The cumulative effect of all those LPFM transmitters on all those adjacent channels must be studied objectively and scientifically, not just politically. The technical and financial experts in radio broadcasting have patiently waited for an IBOC solution from science rather than violate federal law by pirate broadcasting and overrun the FCC with unmitigated demands for new or shared spectrum. After an IBOC service is established, and after extensive real-world testing has been made, the Commission can, if then appropriate, issue a Notice of Inquiry regarding creation of an LPFM service and develop a full factual record.

To do otherwise will harm the IBOC initiatives and send a message to developers that it matters not how long you have been working on a system or how close to release you are, the FCC can cut you off at the knees at any time by prejudicing your service. The sitting members of the Commission should be encouraging IBOC progress. The vast investments in new technologies so often urged by Vice President Gore that involve services regulated by the Commission are not so advisable in the light of this NPRM.

IV. IF IT IS DETERMINED THAT REDUCTIONS IN SPACINGS CAN BE MADE NOW WITHOUT INTERFERENCE, EXISTING LICENSEE MUST BE PERMITTED TO USE THE NEW STANDARDS FOR UPGRADES AND MOVES PRIOR TO OPENING OF FILING WINDOWS FOR LPFM OPERATORS.

Broadcasters have long-established ties to, and traditions of great service to, the communities to which their stations are licensed. We need not cite the long litany of heroic acts of broadcasters to save the people of their service areas from injury and loss of life from storms. All too many broadcast station personnel have made the ultimate sacrifice to save others or to make their lives more convenient (such as in the all too frequent loss of personnel on traffic and other reporting aircraft). The results of broadcasters' support for community and civic activities are well known and need not be enumerated.

The Commission has noted that it has received several thousand communications in support of LPFM. In the past, the Commission did not make technical regulations based on the numerosity of the filings and the Commission has not justified why it should do so now.[3]

In view of the past service rendered by existing broadcasters and the degree to which the public depends on existing broadcasters, fundamental fairness to the listeners to existing services and to the existing licensees mandates that existing broadcasters be permitted to improve their services to the public through upgrades and moves utilizing any revised technical rules prior to the Commission permitting establishment of new services with new rules. Counter to what this NPRM seems to presuppose, the audience served by radio

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[3]In view of the fact that the Commission has widely publicized this proceeding, if the Commission receives fewer than two million letters (representing just one percent of the population) in support of LPFM, the Commission must realize that the public is not interested in and does not want LPFM.

broadcasting is now more that ever mobile, and Amaturo believes that virtually all existing FM broadcasters are willing to increase their facilities to accommodate this mobility.

V. IF IT IS TO BE CREATED, A COMMUNITY RADIO SERVICE SHOULD BE IN THE UHF SPECTRUM.

The wavelength of UHF, by definition, is shorter and building penetration would be more effective. Since a low power service is directed at a confined geographical area, it is presupposed that most of the listening will be done in fixed locations, such as in apartment buildings, and by city dwellers, most of whom are not doing long or even short commutes in private automobiles, but rather are accompanied in pedestrian movement with personal and portable receivers. A low power service in the UHF spectrum would more likely compliment the lifestyle of an urban audience. The coverage would be more stable and predictable and interference issues would be avoided. UHF may be the best solution if a real need were established.

Therefore, if a new community radio service is to be created, it should be established in the UHF spectrum. In every community there are UHF TV channels on which no signals are received. Even with the heightened congestion of the UHF spectrum due to DTV and LPTV displacement, in almost every community one or more UHF channels could be used for community radio stations operating with ten watts and low antennas. UHF propagation is more suited than is VHF for the local use for which community radio is to be created. The service would give interference to no reception services and receive very little, if any, interference. Moreover, spectrum in UHF-TV channels that is being recaptured and will be auctioned can be bid for by LPFM advocates.

To the extent that FM modulation is used, and the transmitter carrier frequency for a community station matches the aural carrier frequency of a UHF TV channel, existing TV receivers and portable radios with UHF TV tuners in them, are ready to receive the service. We note that downconverters for UHF TV were plentiful when the service was new.

Alternatively, at the end of the DTV conversion period, absent of use by DTV stations, channel 6 could become an expanded FM band with LPFM services added just below 88 MHZ.

The VHF FM broadcast band is the wrong place in the electromagnetic spectrum for a low power or small area radio service of any kind, particularly a low power FM broadcasting service. The propagation characteristics are such that the emitted signal cannot be contained adequately by terrain or other obstruction or by free space field strength decay.

The signal from even a one watt ERP emission in the FM band provides a much larger interference area than service area. The same holds for ten watt ERP stations, as acknowledged by a commission decision several years ago that ten watt class D FM noncommercial stations were an inefficient use of spectrum. One hundred watt ERP FM stations, particularly when at high elevations, often cover and cause interference over huge populated land areas, but do not have enough power to penetrate buildings or overcome obstacles to reception just a few miles from the transmitter site. This being the case, 100 watt ERP stations are also an inefficient use of the spectrum and resemble in reality a jamming effect on adjacent and even co-channel stations.

Presumably, the petitioners want their low power stations in the FM band so their signals will be easily received by the public in local and thus smaller geographical areas, but

this is counterintuitive to the extent that the FM band is not conducive to good reception from low power stations in restricted service areas, but is in fact, only suited to high power broadcasting.

VI. CONCLUSION: A COMMUNITY RADIO SERVICE SHOULD NOT BE CREATED ON THE FM BROADCAST BAND.

The drafters of the Communications Act of had it right; they understood that only one signal could get through on the same broadcast frequency in a given area at one time. Moreover, it is not receivers of information that are demanding the demolition of the FM band to create LPFM services, rather, it is those that would like to broadcast to an audience of one or ten or one hundred, while the same spectrum very well serves thousands or hundreds of thousands when properly allocated and facilities are properly implemented. To the extent some petitioners don't mind creating interference to existing services so they can have their day in the sun, they are, simply, selfish.

Creation of a LPFM service as proposed would be contrary to the public interest. Interference will result, causing massive loss of existing services. The perhaps laudable goals of establishing a community radio service will not be achieved, in part because the same interference that LPFM would bring to existing services will strangle it too. It will not be a service; it will be an interference generator. In the case of IBOC, LPFM will likely be the diesel fuel that turns fertilizer into a destructive bomb when mixed in the right quantity.

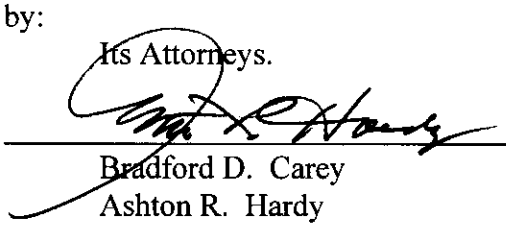
The fact that the Commission is measuring support for LPFM in the thousands or tens of thousands is not a reason to create a service in based on a complete reversal of technical decisions made two decades ago to do away with low power stations. If the Commission wants to see response in large numbers, it should ask the public to state whether it should

protect local stations from interference (or, perhaps whether religion should be banned from the airwaves). It would be nice if every person with an opinion or a great idea for programming content had their own media outlet that could be turned on and off at will with an unlimited potential audience. It exists. It is the internet.

Let IBOC have a chance. Then, carefully implement rule changes such as complete testing may prove can implemented safely; first for existing facilities, then for any new services.[4] For now, Amaturo Group of LA, Ltd. respectfully submits that the Commission must NOT create a new Low Power FM Service and were the Commission to create such a service, all LPFM stations must be secondary to existing stations and yield in the face of regular FM stations plans to move and/or upgrade.

Respectfully Submitted,

The Amaturo Group of LA, Ltd.,
by:
Its Attorneys.



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[4]The Commission's apparent haste to proceed with LPFM is in stark contrast to the abject lack of movement on proposals to the Commission and by the Commission to make certain changes to the Commission's rules. Some proceedings are so long unheard from that one could wonder if they have been prejudiced by, or made secondary to, this proceeding.